IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
Writ Petition No.7903 of 2005

Dnyaneshwari Kamalakar Bhagat,)
aged 25 years, C/o.Office of the)
Deputy Director of Land Records)
Konkan Region, having its office)
at Old Custom House, DD Building,)
Fort, Mumbai - 400 023.).. Petitioner.

Vs.

1. State of Maharashtra,)
through its Secretary,)
Tribal Development Department,)
Mantralaya, Mumbai - 32.)

2. Scheduled Tribe Certificate)
Scrutiny Committee,)
Konkan Division, Thane,)
through its Deputy Director)
(R) and Member-Secretary,)
having its office at Wagale)
Estate, Thane (West),)
Dist. Thane.)

3. Deputy Director of Land)
Records, Konkan Region,)
having its office at)
DD Building, Old Custom House,)
Fort, Mumbai - 400 023.)

4. Sub Divisional Officer,)
Alibag Sub Division, Alibag,)
Dist. Raigad.).. Respondents
Vs.

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Shri R.K.Mendadkar & H.K.Mandlik for the petitioner.

Shri C.R.Sonawane, AGP for the respondents.
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CORAM : R.M.S.KHANDEPARKAR &
SMT.ROSHAN DALVI, JJ.

DATED : 16th JUNE, 2006

ORAL JUDGMENT : (Per R.M.S.Khandeparkar, J)

1. Heard. Rule. By consent, the rule is made returnable forthwith.

2. The petitioner challenges the order dated 31st March, 2005 passed by the scrutiny committee on the ground that the committee proceeded to dispose of the matter relating to the caste verification of the petitioner without affording proper opportunity of personal hearing being given to the petitioner, and thereby acted illegally and particularly in contravention of the provisions of the Rule 12 of the Maharashtra Scheduled Tribes (Regulations of Issuance and Verification of) Certificate Rules, 2003, hereinafter called as "the said Rules".

3. While elaborating the case of the petitioner, the learned advocate for the petitioner drawing our attention to the Rule 12 of the said Rules and in particular Sub-rule (9) submitted that plain reading of the impugned order would disclose that the scrutiny committee did not comply with the mandate of the said rules, as far as it relates to the opportunity to the

concerned person for personal hearing before the scrutiny committee. The learned AGP on the other hand submitted that the findings arrived at by the scrutiny committee in the impugned order apparently disclose that sufficient opportunity of being heard was given to the petitioner. However, she failed to avail the same, and therefore, the committee cannot be blamed of having not complied with the procedure relating to the personal hearing to be given to the claimant.

4. The impugned order on the aspect of opportunity of being heard is given to the petitioner clearly records thus:-

> "As the findings were contrary to the claim of the applicant, a show cause notice was issued to her on 13.2.2002 along with a copy of report with direction to file reply. The applicant requested for adjournment for one month. Accordingly one month time was granted and she was again asked to submit her reply vide Committee's show cause notice dated 19/11/2004. The applicant was also informed that if she seeks opportunity of personal hearing, she shall inform the committee accordingly. However inspite of receiving

committee's notice she has not filed reply, nor requested for personal hearing nor requested for adjournment also. Therefore, the committee has decided her claim on merit."

5. As rightly submitted by the learned AGP that the above findings by the committee clearly reveal that the petitioner was not only given a show cause notice along with the copy of the report of the vigilance cell but was also informed about entitlement for opportunity of being heard personally and in case she desired to avail the same, she could inform accordingly to the committee. This apparently discloses that the committee has followed the basic principles of natural justice while duly complying the mandate of the Rule 12 of the said Rules.

6. The Rule 12 of the said Rules deals with the procedure to be followed by scrutiny committee. In terms of the Sub-rule (8) thereof, if the scrutiny committee, on the basis of the Vigilance Cell report and other documents available, is not satisfied about the claim of the applicant, the Committee shall issue a show cause notice to the applicant and also serve a copy of the report of the Vigilance Officer by registered post with acknowledgement due. A copy

shall also be sent to the Head of the Department concerned, if necessary. The notice shall indicate that the representation or reply, if any, should be made within 15 days from the date of receipt of the notice and in any case not more than 30 days from the date of receipt of the notice. In case the applicant requests for adjournment or extension of the time-limit, reasonable time should be granted. Sub-rule (9) of Rule 12 of the said Rules provides that after personal hearing if the scrutiny committee is satisfied regarding the genuineness of the claim, Validity Certificate shall be issued in Form G. Sub-clause (b) of Sub-rule (9) thereof provides that after personal hearing, if the scrutiny committee is not satisfied about the genuineness of the claim and correctness of the Scheduled Tribe Certificate, it shall pass an order of cancellation and of confiscation of the Certificate and communicate the same to the Competent Authority for taking necessary entries in the register and for further necessary action.

7. The above quoted paragraph from the impugned order ex facie discloses that the scrutiny committee was not satisfied about the claim of the petitioner on the basis of vigilance cell report, and therefore, a

copy of the said report was furnished to the petitioner and the petitioner was given one month's time to file her say. The petitioner asked for further time and the same was also granted. In fact, initially a show cause notice along with a copy of the vigilance cell report was issued on 13th February, 2002 and thereafter another show cause notice was issued on 19th November, 2004. It apparently discloses that more than two years' period was granted to the petitioner to give her say on the said report. She was also informed about her right of opportunity of being heard personally and it was inquired from the petitioner as to whether she would like to avail the same. However, the petitioner neither sent any reply to the show cause notice nor availed the opportunity of being personally heard in the matter. In the circumstances, it is too late for the petitioner to contend that the scrutiny committee disposed of the matter without she being heard personally. The contention is absolutely devoid of substance and is ex facie contrary to the records.

8. As no other grounds was canvassed to challenge the impugned order, there is no case made out for interference in the impugned order in writ jurisdiction. Therefore, the petition fails and is

hereby dismissed. The rule is discharged with no order as to costs.

(R.M.S.KHANDEPARKAR, J)

(SMT.ROSHAN DALVI, J)